

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FRANK S. KULA,

Plaintiff,

v.

Civil Action No.3:07-CV-114

UNITED STATES OF AMERICA,

Defendant.

**REPORT AND RECOMMENDATION PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS BE DENIED AS MOOT.**

On August 29, 2007, Frank S. Kula, ["Plaintiff"], filed a complaint under 28 U.S.C. § 1985 and an Application for Leave to Proceed in forma pauperis. Subsequently, on March 10, 2008, Plaintiff paid his filing fee.

Accordingly, it is recommended Plaintiff's August 29, 2007 Application to Proceed in forma pauperis be **DENIED AS MOOT.**

Plaintiff may file, within ten (10) days from the date of this Report and Recommendation, with the Clerk of Court, written objections identifying those portions of the recommendation to which objection is made, and the basis for such objections. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se*

plaintiff and counsel of record, as applicable.

DATED: March 14, 2008

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE